



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

October 8, 2020

SUPPLEMENTAL INFORMATION REQUEST
URGENT LEGAL MATTER – PROMPT REPLY NECESSARY
VIA E-MAIL TO: tmills@drivermcafee.com

Charles F. Mills, III
Driver, McAfee, Hawthorne & Diebenow, PLLC
Wells Fargo Center
One Independent Drive
Suite 1200
Jacksonville, Florida 32202

Re: Supplemental Request for Information for the Pensacola Iron Triangle Superfund Site
Pensacola, Escambia County, Florida

Dear Mr. Mills:

Pursuant to the authority of Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e), your client, SCP, LLC, is hereby requested to respond to the Supplemental Information Request attached hereto. Instructions on how to respond to the questions are included in **Enclosure A** as well as definitions that apply to the words appearing in the questions. The questions set forth in **Enclosure B** attached hereto.

Compliance with the Information Request is mandatory. Failure to respond fully and truthfully to the Information Request within **14 calendar days** of receipt of this letter, or adequately to justify such failure to respond, can result in enforcement action by the EPA against SCP, LLC pursuant to Section 104(e) of CERCLA. This statute permits the EPA to seek the imposition of penalties of up to \$58,328.00 for each day of continued non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject your client to criminal penalties under 18 U.S.C. § 1001.

Your client's responses should be submitted within the time specified herein and e-mailed to Christopher Jones at jones.christophere@epa.gov and to Wilda Cobb at cobb.wilda@epa.gov. In addition, your client's responses should contemporaneously be mailed to Christopher Jones at the following address:

Christopher Jones
U.S. Environmental Protection Agency Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

Due to the legal ramifications of your client's failure to respond properly, the EPA strongly encourages SCP, LLC to give this matter its immediate attention and to respond to this Information Request within the time specified above. Should the timeframe set forth in the letter prove difficult to meet in light of the COVID-19 situation, please contact the EPA so that we might consider accommodations, as necessary. If you have any legal questions regarding this matter, please contact Wilda Cobb, Attorney, at 404-562-9530.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Jones', is positioned above the printed name.

Christopher Jones
Enforcement Project Manager
Superfund & Emergency Management
Division

Enclosures

- A. 104(e) Information Request Instructions and Definitions
- B. 104(e) Information Request Questions

ENCLOSURE A

PENSACOLA IRON TRIANGLE SUPERFUND SITE

Instructions

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the corresponding number of the question and the subpart to which it corresponds.
3. In answering each question, identify all documents and persons that contributed information relating to each question.
4. For each document produced in response to this Information Request indicate on the document, or in some other reasonable manner, the number of the question and the subpart to which it responds.
5. If information not known or not available to you as of the date of submission of a response to this Information Request should later become known or available, you must supplement your response to the EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA thereof as soon as possible.
6. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may, if you desire, assert a business confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Sections 9604(e)(7)(E) and (F); Section 3007(b) of RCRA, 42 U.S.C. Section 6927(b); and 40 C.F.R. Section 2.203(b).

To make a confidentiality claim, please write or type "CONFIDENTIAL" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information, including any redacted versions of documents are in one envelope, and all materials for which you desire confidential treatment are in another envelope.

If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. You should read the above cited regulations carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

7. Personnel, medical files, and similar files in which the disclosure to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
8. Where specific information has not been memorialized in any document, but is nonetheless responsive to a question, you must respond to the question with a written response.

9. If information responsive to this Information Request is not in your possession, custody, or control, then identify the person from whom such information may be obtained.

10. If you have objections to some or all of the questions within the Information Request, you are still required to respond to each of the questions.

Definitions

The following definitions shall apply to the following words as they appear in **Enclosure B**:

1. The term "you" or "Respondent" shall mean SCP, LLC.
2. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
3. The terms the "Site" or the "facility" shall mean and include the property on or about 3241 N. Palafox St., Pensacola, Florida 32505.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such pollutants and contaminants with any other substances. Petroleum products mixed with pollutants and contaminants are also included in this definition.
5. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of the Resource Conservation and Recovery Act (RCRA).
6. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.
7. The term "materials" shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site, including but not limited to, all hazardous substances, pollutants and contaminants, hazardous wastes and solid wastes, as defined above.
8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
9. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
10. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
11. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
12. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

13. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreement and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which it produces, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

14. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

15. The term "arrangement" means every separate contract or other agreement between two or more persons.

16. The terms "transaction" or "transact" mean any sale, transfer, giving, delivery, change in ownership, or change in possession.

17. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

18. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case the statutory or regulatory definitions shall apply.

19. The term "property interest" means any interest in property including but not limited to, any ownership interest, including an easement, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns or rents, or owned or rented property.

ENCLOSURE B

PENSACOLA IRON TRIANGLE SUPERFUND SITE

Information Request Questions

1. Identify the person(s) answering these Questions on behalf of Respondent, including all persons consulted in answering these Questions and the documents consulted, examined, or referred to in preparation of answering these Questions and provide true and accurate copies of all such documents.
2. Please provide the following:
 - a. Respondent's full legal name as it appears on the Certificate of Incorporation issued by the Secretary of State;
 - b. each registered trade name, d/b/a/ name, or popular name under which Respondent does business or has done business within the past five years and the applicable dates;
 - c. each state or jurisdiction in which the Respondent is incorporated and the date on which it became incorporated in each such state or jurisdiction; and,
 - d. Respondent's principal place of business, including mailing address, physical address, and telephone number.
3. State how Respondent was capitalized upon its incorporation, including:
 - a. the identity of each person or entity who purchased or subscribed to stock in the Respondent;
 - b. the number of shares purchased or subscribed by each such person or entity; and,
 - c. the amount paid or promised for the shares purchased or subscribed by each such person or entity and the date(s) of each such payment.
4. State the nature and extent of the services rendered or activities engaged in by Respondent from its formation to the present.
5. Identify each and every person who has served as an officer, director, shareholder, or management-level employee for Respondent at any time during the past five years and for each such person, provide the following:
 - a. their full name, home address, home telephone number, as well as each business address and each business telephone number;
 - b. the office(s) or position(s) held and the applicable dates; and,
 - c. the salary, benefits, and any other compensation paid to the person during each of the past five years.
6. Does Respondent have a Board of Directors? If so, has the Board of Directors conducted any meetings during the past five years? If so, provide the following:
 - a. the date, time, and location of the meeting; and,
 - b. the identity of each person in attendance at the meeting.
7. During the past five years, has any person prepared a balance sheet, income (profit and loss) statement, cash statement, or annual report concerning Respondent's financial activities? If so, for each such person, state:

- a. the identity of the person, including their business address and business telephone number;
 - b. the documents prepared by the person and the dates on which they were prepared; and,
 - c. the current location of the documents and the identity of the person with custody of them.
8. Provide copies of all deeds, transfer certificates of title, and other documents that memorialize or evidence transfers of any property interest to or from Respondent during the past five years from 2014 through 2019.
9. Provide copies of all federal tax returns for Respondent for the past five years from 2014 through 2019.
10. Provide copies of all state tax returns for Respondent for the past five years from 2014 through 2019.
11. Identify and provide copies of all income statements for Respondent for the past five years from 2014 through 2019.